

Message Text

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ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 /024 R

DRAFTED BY OPIC/GC:MAWISS:PLD

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NEA/INS:RBMORLEY

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P 122304Z NOV 75

FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI PRIORITY

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E.O. 11652: N/A

TAGS: EFIN

SUBJECT: MCNALLY PITTSBURG

REF: (A) NEW DELHI 14676 (B) NEW DELHI 12989

1. OPIC APPRECIATES INFORMATION REGARDING EXCHANGE RATES CONTAINED IN REFTEL (A), PARA. 1. SINCE PERMIT TO TRANSFER 1973 DIVIDEND ISSUED ON SEPT. 25, 1975 PER REFTEL (B), OPIC ASSUMES THAT PROPER DATE FOR ESTABLISHING EXCHANGE RATE FOR 1973 DIVIDEND WAS SEPT. 25, 1975. THUS USING OFFICIAL RATE OF SEPTEMBER 25, 1975, OPIC CALCULATES THAT 1973 DIVIDEND IN AMOUNT OF 497,011 INDIAN RUPEES SHOULD HAVE CONVERTED INTO 55,627.95 U.S. DOLLARS RATHER THAN THE 54,820.31 U.S. DOLLARS WHICH OPIC RECEIVED. CAN EMBASSY EXPLAIN DIFFERENCE?

2. OPIC IS CONTRACTUALLY OBLIGATED TO MCNALLY PITTSBURG TO TRANSFER INDIAN RUPEES INTO DOLLARS, PROVIDING CERTAIN CONDITIONS ARE MET, IF MCNALLY PITTSBURG IS PREVENTED FROM TRANSFERRING SUCH RUPEES INTO DOLLARS BY THE FAILURE OF THE LIMITED OFFICIAL USE

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RBI TO MAKE SUCH A TRANSFER WHEN THE APPLICATION FOR

TRANSFER HAS BEEN PENDING FOR AT LEAST SIXTY CONSECUTIVE
CALENDAR DAYS. AS WAS THE CASE WITH THE 1973 DIVIDEND,

THIS IS ALSO TRUE REGARDING THE 1974 DIVIDEND. THUS
OPIC IS OBLIGATED TO PAY MCNALLY.

3. IF OTHER OPIC-INSURED INVESTORS IN INDIA WITH SIMILAR
CONTRACTS ENCOUNTER DELAYS IN MAKING SIMILAR TRANSFERS
WHICH ARE ROUTINELY DELAYED LONGER THAN SIXTY DAYS, THEN
THEY TOO MAY FILE CLAIMS WITH OPIC AND EMBASSY'S FEAR AS
EXPRESSED REFTEL (A), PARA. 3, MAY BE WELL FOUNDED. INTENT
OF THE GOI IN DELAYING TRANSFER IS IRRELEVANT TO OPERATION
INCONVERTIBILITY COVERAGE AND IN PARTICULAR THE PROVISION
OF OPIC CONTRACT DEALING WITH "PASSIVE BLOCKAGE," AS HAS
BEEN EXPERIENCED BY MCNALLY.

DECONTROL 11-11-76. KISSINGER

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